

IC 33-44-5

Chapter 5. Participation by Attorneys

IC 33-44-5-1

Application of chapter

Sec. 1. Except as provided in section 2 of this chapter, each attorney is subject to this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-2

Attorneys not subject to article

Sec. 2. An attorney is not subject to this article if the attorney:

- (1) does not place any qualified funds in an interest bearing attorney trust account; and
- (2) submits a written statement to the board.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-3

Written statement of attorney; procedure

Sec. 3. The statement submitted under section 2 of this chapter must:

- (1) be filed in accordance with rules adopted under IC 4-22-2 by the board; and
- (2) state that the attorney is acting under section 2 of this chapter to exempt the attorney from the application of this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-4

Presumption if written statement not filed

Sec. 4. If an attorney does not act under section 2 of this chapter, the board shall presume that the attorney has elected to be subject to this article.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-5

Placement of funds; interest bearing attorney trust account

Sec. 5. An attorney subject to this article shall place all qualified funds in an interest bearing attorney trust account.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-6

Qualified funds; determination by attorney

Sec. 6. An attorney subject to this article shall determine if money received from a client or beneficial owner constitutes qualified funds.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-7

Determination of qualified funds; considerations

Sec. 7. In making the determination under section 6 of this chapter, the attorney shall consider the following:

- (1) The amount of interest the money would earn during the period the money is expected to be deposited.
- (2) The cost of establishing and administering the account.
- (3) The capability of the depository financial institution to calculate and pay the interest earned by each client's funds, after deduction of any service charges, to the client.

As added by P.L.98-2004, SEC.23.

IC 33-44-5-8

Good faith judgment concerning deposit of funds; attorney liability

Sec. 8. An attorney:

- (1) does not breach a fiduciary duty;
- (2) is not liable in damages; and
- (3) is not subject to disciplinary action;

because of a deposit of money in an interest bearing attorney trust account if the attorney acted in accordance with a good faith judgment that the money constituted qualified funds.

As added by P.L.98-2004, SEC.23.